

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

CARNEAL EASON

PLAINTIFF

v.

No. 2:17-cv-176-DPM

**GRACO, INC.; and SHERWIN-
WILLIAMS**

DEFENDANTS

CARNEAL EASON

PLAINTIFF

v.

No. 2:18-cv-169-DPM

**WAGNER SPRAY TECH
CORPORATION, d/b/a
Titan Tool, Inc.**

DEFENDANT

ORDER

1. The Court appreciates the parties' thoughts on how to handle these two related cases fairly and efficiently. The Court has decided on a hybrid approach. The Court lifts the stay in No. 2:17-cv-176-DPM.

2. The complaint in the original case, No. 2:17-cv-176-DPM, will be dismissed without prejudice. The savings statute, ARK. CODE ANN. § 16-56-126, preserves Eason's claims against Sherwin-Williams and Graco for prompt reassertion.

3. The Court grants Eason leave to amend in the new case, No. 2:18-cv-169-DPM, to add both Sherwin-Williams and Graco. Eason

must plead with specificity and particularity on the nozzle/pump issue. Amended complaint due by 15 February 2019. Graco must make available a Rule 30(b)(6) witness for deposition promptly; Eason must take that deposition by 29 March 2019. Any supplemental expert opinion about Graco is due by 30 April 2019. Notice from all parties due by 17 May 2019 on whether any basis exists to keep Graco in the case. No motion will be needed: either all parties will agree that there was a mistaken-identity issue and Graco needs to drop out; or they will disagree, based on supporting evidentiary materials that must be attached to the notices. The Court will rule on the notices and that record. FED. R. CIV. P. 56(f).

4. The motion to consolidate, *No. 4*, in No. 2:18-cv-169-DPM is denied without prejudice as moot.

5. The Rule 26(f) report in No. 2:18-cv-169-DPM is due by 28 February 2019. In due course, the Court will enter a Final Scheduling Order in that case with generic and usual deadlines. But the Graco-specific deadlines and directions in this Order shall control on that party.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

28 January 2019